

## ★★★ &lt;第17回知的財産翻訳検定試験【第8回英文和訳】&gt; ★★★

## 《1級課題 -知財法務実務-》

## 【解答にあたっての注意】

1. 問題の指示により和訳してください。
2. 課題文に段落番号がある場合、これを訳文に記載してください。
3. 課題は2題あります。それぞれの課題の指示に従い、2題すべて解答してください。

問1. 以下の英文を日本語に翻訳してください。

On the date the patent is actually issued, the official patent grant will be delivered or mailed to the correspondence of record.

The date on which an application matures into a United States patent is important. On this date, the United States patent rights become enforceable against infringers. The right of the patent owner to collect a reasonable royalty for pre-issuance use of the patented invention pursuant to 35 USC Section 154 does not vest until the same date.

On the issue date, certain rights of the patentee are foreclosed. For example, the specification, drawing, and entire file history of an unpublished specification become publicly available. Thus, the patentee may no longer assert claims based upon any trade secret information that may have been present therein. After the issue date, the patentee may no longer file a continuing application in the United States under 35 USC Section 120. The patentee may also be foreclosed from filing corresponding application in some foreign countries. The issue date also marks the beginning of certain important time periods. For example, the two-year period within which the patentee may file a broadened reissue application under 35 USC Section 251 begins to run on the issue date of the patent. Patent rights are statutorily presumed to have been validly granted as of the issue date and the patent is, on this date, deemed to have an ascertainable life over which the underlying property may be depreciated for income tax purposes. Finally, after a patent has issued, it may be amended, corrected, or modified only by way of a certificate of correction, disclaimer, reissue patent, or statutorily unexamined patent.

問2. 以下の英文は、米国連邦巡回控訴裁判所（CAFC）のある判決文から抜粋したものです。この英文を、200字以内の日本語で要約してください。日本語要約の字数には、句読点も含めるものとします（ただし、文頭の字下げ、及び文中に意図せず混入したと思われる空白は字数に含めません）。なお、200字の字数制限は厳密に適用することとし、字数超過は減点の対象とします。

Indefiniteness is a legal issue this court reviews without deference. *Star Scientific, Inc. v. R.J. Reynolds Tobacco Co.*, 655 F.3d 1364, 1373 (Fed. Cir. 2011) (“*Star Scientific II*”). Section 112, paragraph 2, requires that the specification of a patent “conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.” “Because claims delineate the patentee’s right to exclude, the patent statute requires that the scope of the claims be sufficiently definite to inform the public of the bounds of the protected invention, i.e., what subject matter is covered by the exclusive rights of the patent.” *Halliburton Energy Servs., Inc. v. M-I LLC*, 514 F.3d 1244, 1249 (Fed. Cir. 2008). A claim is indefinite only when it is “not amenable to construction” or “insolubly ambiguous.” *Datamize, LLC v. Plumtree Software*,

Inc., 417 F.3d 1342, 1347 (Fed. Cir. 2005) (internal quotations and citations omitted). “In and of itself, a reduction of the meaning of a claim term into words is not dispositive of whether the term is definite.... And if reasonable efforts at claim construction result in a definition that does not provide sufficient particularity and clarity to inform skilled artisans of the bounds of the claim, the claim is insolubly ambiguous and invalid for indefiniteness.” *Star Scientific, Inc. v. R.J. Reynolds Tobacco Co.*, 537 F.3d 1357, 1371 (Fed. Cir. 2008) (“*Star Scientific I*”) (citations omitted).

“Thus, a construed claim can be indefinite if the construction remains insolubly ambiguous . . . .” *Star Scientific II*, 655 F.3d at 1373; see also *Exxon Research & Eng’ g Co. v. United States*, 265 F.3d 1371, 1377–79 (Fed. Cir. 2001) (accepting the district court’s claim construction and separately undertaking an analysis of the claims at issue to determine indefiniteness); *Union Pac. Res. Co. v. Chesapeake Energy Corp.*, 236 F.3d 684, 689–90, 692 (Fed. Cir. 2001) (same); *Minn.Min. and Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 1567 (Fed. Cir. 1992) (same).